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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,048	12/14/2001	Liron Frenkel	3394P010	5374

8791 7590 05/31/2006

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EXAMINER

PATHAK, SUDHANSHU C

ART UNIT PAPER NUMBER

2611

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/024,048	FRENKEL, LIRON	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sudhanshu C. Pathak	2611	

All participants (applicant, applicant's representative, PTO personnel):

(1) Sudhanshu C. Pathak. (3) \_\_\_\_\_

(2) Daniel Kligler. (4) \_\_\_\_\_

Date of Interview: May 22<sup>nd</sup>, 2006.

Type: a) ☐ Telephonic b) ☐ Video Conference  
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: 1 and 23.

Identification of prior art discussed: yes.

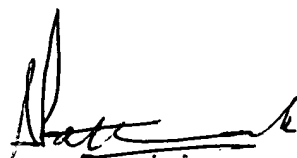
Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 \_\_\_\_\_  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The interview consisted of the following:

- 1) The representative was not the attorney of record, and therefore a Power of Attorney was provided by Eric S. Hyman (the attorney of record). Furthermore, the representative at the interview admitted that the client (ST Microelectronics - bought Tiaoga Tech.) had consented and authorized the interview.
- 2) The Power of Attorney and the email correspondences are to be made of record.
- 3) In regards to Claim 1, the applicant would like to see the Prior Art (TS 101 524-2; v1.1.1; June 2000), the examiner has agreed to provide this Art. The Applicant would also provide an affidavit (1.131 or 1.132) so as to overcome the rejections based on the later versions of the ITU drafts.
- 4) In regards to Claim 23, the applicant would amend the claim to include the definition of bit loading to include bits/symbol to overcome the McHale reference.

**Pathak, Sudhanshu**

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**From:** Daniel Kligler [dkligler@stc.co.il]  
**Sent:** Wednesday, May 17, 2006 12:52 AM  
**To:** Pathak, Sudhanshu  
**Subject:** RE: REMINDER: US 10/024,048 - our ref. 42935

Dear Sudhanshu,

MPEP 713.05 refers to "registered individuals who are known to be the local representatives of the attorney in the application." That is not my role. I am anything but "local," as I am coming in from Israel for the interview. In addition, the client (ST Microelectronics) has consented and authorized me to conduct the interview. 37 CFR 10.57(c), however, is part of the Code of Professional Responsibility for practitioners. If I violate this code, my client may file a complaint against me, but it is not the Examiner's job to enforce it on a case-by-case basis.

I have conducted tens of interviews over the past few years, and have never before been asked to provide evidence of the client's consent. An associate power of attorney or (more recently) authorization to act in a representative capacity per MPEP 405 has always been sufficient. I suggest you discuss this point with your supervisor.

Regards,  
Daniel

>>> "Pathak, Sudhanshu" <Sudhanshu.Pathak@USPTO.GOV> 05/16/06 10:07PM >>>  
Daniel,

I appreciate the draft of the issues to be discussed. I await the authorization from the attorney of record for you to act in a representative capacity. Furthermore, I will also need the consent of the client (See: 713.05 [R-2] Interviews Prohibited or Granted, Special Situations--See sections pasted below.)

-----Original Message-----

**From:** Daniel Kligler [mailto:dkligler@stc.co.il]  
**Sent:** Monday, May 15, 2006 10:02 AM  
**To:** Pathak, Sudhanshu  
**Subject:** RE: REMINDER: US 10/024,,048 - our ref. 42935

Dear Sudhanshu,

Attached please find draft remarks that set forth the points I would like to discuss in our interview.

I have asked the attorneys of record in this case (who are already named in the power of attorney that is on file in the USPTO) to send you an authorization for me to act in a representative capacity. In any event, I will have my own copy of the file with me.

I look forward to meeting you. Would you please tell me your location?

Regards,  
Daniel

>>> "Pathak, Sudhanshu" <Sudhanshu.Pathak@USPTO.GOV> 05/12/06 06:11PM >>>  
Here is the information required for the interview to be conducted:  
As can be seen below from the MPEP an "Authorization to Act in a  
Representative in a Representative Capacity" needs to be provided for the  
interview to be conducted. Furthermore, a Power of Attorney from the  
assignee and/or inventor be provided for the interview.

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405 [R-3] Attorney Not of Record

".....However, interviews with a registered attorney or agent not of  
record will >ordinarily< be conducted based only on the information and  
files supplied by the attorney or agent in view of 35 U.S.C. 122."

"Interviews may be conducted with a registered practitioner who does not  
have a copy of the application file, but has proper authority from the  
applicant or attorney or agent of record in the form of a paper on file in  
the application. See also MPEP §713.05. Such a paper may be an  
"Authorization to Act in a Representative Capacity." A sample of an  
"Authorization to Act in a Representative Capacity" is available from the  
USPTO Internet web site at <http://www.uspto.gov/web/forms/sb0084.tif>."

713.05 [R-2] Interviews Prohibited or Granted, Special Situations  
....."Interviews are generally not< granted to registered individuals who  
are known to be  
the local representatives of the attorney in the application unless a power  
of  
attorney to them is of record in the particular application. Note that  
pursuant to 37  
CFR 10.57(c), a practitioner cannot authorize other registered  
practitioners to conduct  
interviews without consent of the client after full disclosure.  
Furthermore, a practitioner  
can not authorize a nonpractitioner to conduct interviews since this would  
be contrary to  
While a registered practitioner not of record may request a telephone  
interview (if the  
practitioner is authorized to do so by the applicant or the attorney of  
record), it is  
recommended that a facsimile transmission of a power of attorney be filed  
prior to the  
interview. Otherwise, the examiner will conduct the telephone interview  
with the Office's  
file closed and work solely from the practitioner's file, which may be  
difficult to do over

the phone.

Interviews normally should not be granted unless the requesting party has authority to bind the principal concerned.

35 U.S.C. 122 Confidential status of applications; publication of patent applications.

(a) CONFIDENTIALITY. - Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

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-----Original Message-----

From: Daniel Kligler [mailto:dkligler@stc.co.il]  
Sent: Friday, May 12, 2006 4:42 AM  
To: Pathak, Sudhanshu  
Subject: RE: REMINDER: US 10/024,,048 - our ref. 42935

Dear Sudhanshu,

We are on for 4:45, May 22. I do not work for the same firm as the attorney of record, but I will ask him to send you an authorization for me to act in a representative capacity in this case.

Regards,  
Daniel

>>> "Pathak, Sudhanshu" <Sudhanshu.Pathak@USPTO.GOV> 05/11/06 04:23PM >>>  
I am available for the interview preferrably around (4:45). Furthermore, in regards to you not being the atterney of record I would indeed need an an authorization for the interview form the atterney of record, and know if both of the atterney's (you and of record) work for the same law firm.

thanks,  
Sudhanshu

-----Original Message-----

From: Daniel Kligler [mailto:dkligler@stc.co.il]  
Sent: Thursday, May 11, 2006 10:22 AM  
To: Pathak, Sudhanshu  
Subject: REMINDER: US 10/024,,048 - our ref. 42935

I am awaiting your response to the letter below. In the meanwhile, my schedule for May 22 has gotten very full, but I still have time available either early morning (8 or 8:30) or late afternoon (around 4:45). Please tell me whether you are available. Thank you.

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Dear Mr. Pathak,

I am planning a trip to the USPTO on May 22, and would like to schedule an interview in this case with you and your supervisor. (I am not the attorney of record, but will be happy to furnish an authorization for the interview if necessary.) I will prepare and send you a detailed agenda in advance of the interview.

Would you please let me know what times would be convenient on May 22?

Regards,  
Daniel Kligler, Ph.D.  
Reg. No. 41,120  
Sanford T. Colb & Co.